

## **Indiana Legal Services State Plan Report 1998**

### **Introduction**

Indiana is a conservative state which does not readily adopt models used in other states. For example, Indiana is still the only state that has not begun an IOLTA program, and, as described below, the IOLTA Rule which has been adopted by the Indiana Supreme Court adopts an IOLTA system that is unlike any other in the country. Indiana not only delayed establishing an IOLTA program, but in adopting one, chose to create an entirely new system, rather than incorporate a program from another state. In light of Indiana's conservative nature, the legal services programs have managed to accomplish some remarkable gains since 1995 in expanding capacity within the state to meet the civil legal needs of the poor. For the most part, these advances have not been accomplished through on-going work by one broad-based planning group, but instead have been accomplished through a variety of smaller, more focused groups of organizations and individuals who are committed to providing free legal services to the poor.

The past accomplishments of the legal services providers in expanding capacity to serve the legal needs of the poor are discussed below. These accomplishments have been part of a concerted effort, by the legal services providers and their partners in the bar, funders, the judiciary, non-LSC providers and other service providers, to expand the capacity in Indiana for organizations to address the legal needs of the poor. Each of the accomplishments discussed below are both accomplishments in their own right, and also stand as examples of the significant initiatives that will be achieved in the future which will create a climate where change will become easier, and even more resources will be available to serve the civil legal needs of the poor in Indiana.

## **Indiana Equal Justice Fund**

The Indiana Equal Justice Fund (IEJF) was created in 1995 to develop resources for the legal services and legal aid programs in Indiana. In creating IEJF, the legal services providers in Indiana enlisted the support of bar leaders throughout the state. IEJF was created with start-up funds from the four legal services programs as well as three non-LSC funded programs. Each of these programs is now a "recipient organization" of IEJF, receiving the benefits of the work of IEJF. One purpose of the IEJF was to break down barriers between LSC-funded programs and non-LSC funded local "legal aides." IEJF gives these organizations a forum to work together. IEJF has now secured a three year grant from the Lilly Endowment of over \$300,000 which, along with matching funds, covers operating expenses for IEJF, ensuring that it will continue to grow.

IEJF has its own staff and board members. The board includes a number of influential members of the bar, including several past presidents of the Indiana State Bar Association, law professors, a former Indiana Attorney General and representatives from large and small firms as well as corporate counsel. IEJF conducts an annual attorney campaign to raise funds for the recipient organizations, and is also working on a number of projects to help the recipient organizations raise funds and work together, including negotiating with the State of Indiana for a contract under which the organizations would represent disabled individuals in appealing Supplemental Security Insurance benefits. The IEJF staff and board were also instrumental in getting the Indiana Civil Legal Aid Fund, which is discussed below, passed through the Indiana General Assembly.

Finally, IEJF coordinates public relations for the programs, and encourages the programs to work together in pursuing funding sources which would allow them to serve clients throughout the state. IEJF is the mechanism that enables the programs in Indiana, both LSC-funded programs and most of the non-LSC funded "legal aides" to work together to increase resources for civil legal

assistance to the poor.

### **Civil Legal Aid Fund**

In 1997 the Indiana General Assembly passed the Civil Legal Aid Fund (CLAF) which provides a \$1,000,000 general appropriation for civil legal assistance to the poor. The CLAF bill had been presented to the General Assembly for a number of years, but had never made it out of committee. The hard work of the legal services programs, non-LSC funded programs, the state bar, and the staff and board of IEJF finally resulted in an overwhelming vote in favor of the CLAF. In getting this bill passed, these groups formed an alliance with the public defenders and the Indiana Supreme Court in their efforts to increase funds for criminal defense, and for a program to recruit and support minority law school students. This partnership proved to be a strong one, and the CLAF bill found bi-partisan support in the evenly split Indiana General Assembly.

The \$1,000,000 additional funds came at an important time, following the reduction in funds from the LSC. These funds carry with them restrictions similar to those attached to the federal funds. They are much needed, and have enabled the LSC funded programs to recover somewhat from the earlier reductions in funding, and have expanded the funding of the non-LSC funded programs. Included in the programs receiving CLAF fund are the four LSC funded programs, all five of the non-LSC funded legal aides, one law school clinic and an organization in Indianapolis which provides legal representation to low income community groups in community economic development issues.

### **IOLTA Rule and state-wide *pro bono* initiative by the Indiana Supreme Court**

In February 1998 the Indiana Supreme Court rule establishing IOLTA became effective. The Indiana IOLTA program came to fruition after a long struggle. In 1990, the Indiana General Assembly passed legislation establishing an IOLTA program. That legislation, however, was struck down by the Indiana Supreme Court, which held that the General Assembly did not have the power to establish IOLTA. Only the Indiana Supreme Court could do so. The Indiana Supreme Court then appointed several committees to make recommendations to the court about how an IOLTA program should be established in Indiana, and to what use the funds should be put.

Legal services staff and supporters were among those appointed to these committees, which worked together for two years to draft recommendations to the court. The members of the committees clearly took their roles seriously. They worked many hours, and invited knowledgeable people from across the country to come to Indiana to discuss IOLTA programs in other states. The recommendations drafted by the committees were thorough and thoughtful, and culminated in the Rules adopted by the Indiana Supreme Court.

According to the IOLTA Rules, the IOLTA program will be an opt-out program, administered by the Indiana Bar Foundation (Foundation). The Indiana Supreme Court also established a Pro Bono Commission (Commission), with members appointed by the Court and the Indiana Bar Foundation. The Commission must include members from bar associations, judges, legal assistance programs and the law schools. It is the Commission's role to develop a state-wide *pro bono* program and distribute funds from IOLTA. The Commission will distribute IOLTA funds, for the purpose of *pro bono* development, based on recommendations from local committees in each

of the fourteen judicial districts in Indiana. These local committees will be comprised of a presiding judge, designated by the Supreme Court, and representatives from local legal services providers, law schools, and bar associations. These committees are charged with developing a *pro bono* plan in their district, and making recommendations to the Commission regarding how funds should be distributed in the district.

The Indiana IOLTA program has not yet begun. However, appointments to the Commission and to the judicial district committees are being made. This new program has the potential to raise substantial funds for the development of *pro bono* efforts throughout the state. The LSC-funded programs continue to work closely with the Foundation and others to ensure that their programs are part of this new system to serve the civil legal needs of the poor.

### **Capacity for restricted work**

In response to the restrictions passed by Congress on the legal work that can be done by programs which receive LSC funds, the LSC programs in Indiana determined that in order to fully meet the legal needs of the poor, at least one program organization must be unrestricted. The Indiana Civil Liberties Union (ICLU) therefore sought and received funding from a foundation which already provided funds to legal services. Two staff members from an LSC funded program left to work for the ICLU to ensure that low income people have a place to go when they have cases that LSC funded programs are restricted from doing. The LSC funded programs regularly refer such cases to the ICLU, and work together on things such as trainings and community education.

### **Continued Planning**

In 1995, a planning group was formed to address the coming funding cuts and restrictions affecting LSC funded organizations. This group was made up of a wide variety of individuals and organizations. Many of these same people will be invited to participate in future planning for legal services in Indiana. However, many of the important players have changed, as the landscape in Indiana has changed. Therefore, a future planning group will not necessarily include the same people, or have the same leaders that it did in 1995.

A continuation of this planning effort will include the new leadership of the state-wide *pro bono* effort, who have, for the most part, not yet been appointed. Therefore the next step in this planning process must take place after this new leadership has been established. The new statewide *pro bono* initiative is the greatest new resource in Indiana for civil legal assistance for the poor, and no state-wide planning can take place without including those leading this effort. In addition, the *pro bono* initiative is encouraging a number of new entities and individuals to focus on *pro bono*. The planning process will move forward once these new leaders, who will play such an integral part of the provision of civil legal services for the poor, have been identified and can be included.

The group that will be invited to participate in this planning process in the future will include:

- county, city and state bar associations
- the judiciary
- representatives from the judicial district *pro bono* committees
- the Indiana Bar Foundation
- the Indiana Bar Foundation *Pro Bono* Commission
- client organizations
- non-LSC legal assistance providers
- law schools
- paralegal training schools
- community-based organizations

- non-legal service providers, such as:
  - domestic violence shelters
  - homeless shelters
  - organizations serving the needs of the disabled
- funders, such as:
  - United Ways
  - Indiana Donors Alliance
- Indiana Coalition Against Domestic Violence

The goal of this group, and of the many smaller groups that will undoubtedly form, will be to build upon the work that has been accomplished in the last three years, in a number of areas, including those discussed below.

**1. Intake and the Provision of Advice and Brief Services**

**A. Strengths and weaknesses of the current approach**

Each program has a separate intake and advice and brief services system. Three of the four programs have telephone intake systems through which prospective clients can make an application for legal assistance through a local or toll-free telephone call. One strength of this local system is that it allows for local response to issues and problems. It also allows each program to use local resources, such as volunteers, to conduct or assist with intake. Because of the use of local resources, a centralized intake system might not be cost-effective or effectively serve the needs of clients. However, the programs are exploring the possibility of regional intake. In addition, there are ways that coordination of advice and intake might be more effective in serving clients, and ways of collaboration will be pursued.

**B. Goals to strengthen and expand services to eligible clients**

The programs' goals to strengthen and expand services to eligible clients through intake and the provision of advice and brief services include:

1. Expand use of *pro bono* attorneys and volunteers in the intake system and provision of advice and brief services.
2. Incorporate the intake used for the state-wide *pro bono* system/IOLTA program to ensure that the legal services intake system is coordinated with the *pro bono* intake system, either on the local or state level.
3. Develop integrated or centralized intake systems for special populations that might



benefit from them, such as the elderly.

**C. Major steps and a timetable necessary to achieve those goals**

In order to achieve the above goals, the programs will:

1. Meet with the Indiana Bar Foundation to discuss development of the state-wide *pro bono* initiative and integration of intake systems.
2. Develop a specific timeline that incorporates the IOLTA/*pro bono* timeline.
3. Pursue funding opportunities for specialized hotlines or centralized intake systems.

**2. Effective Use of Technology**

**A. Strengths and Weaknesses of the Current Approach**

To increase inter-program coordination, the programs in the state established a Statewide Office Automation Task Force in September of 1994, with representation from each program. This task force holds formal meetings on a quarterly basis. Currently, each program provides all staff with desktop computer access, along with some Internet access (including Internet e-mail and world wide web access). The computers offer staff the ability to perform word processing, and, in most cases, accounting, timekeeping and case management functions electronically with various types of software.

Each program has purchased, and trained staff on, different kinds of hardware and software. The strengths of this approach involve the ability of each program to purchase and develop expertise on the kind of computer systems deemed most likely to work for their unique set of needs. Because most software includes data sharing features, much of the data from each program can be shared with

other programs if necessary. The Task Force has also conducted several joint training programs for staff of all programs.

The weakness of an individualized approach is that it makes sharing some kinds of data difficult. Also, because the programs use different hardware and software products, they are not able to participate in a statewide volume buying program to reduce technology acquisition expenses.

**B. Goals to strengthen and expand services to eligible clients**

The programs' goals to strengthen and expand services to eligible clients through the use of technology include:

1. Provide individual e-mail addresses for each staff person in each program.
2. Develop a state-wide web-site to provide legal information, documents, and an arena for client and *pro bono* interaction with all the programs in the state.
3. Continue the work of the Statewide Office Automation Task Force in encouraging the sharing of information regarding technology support, development, and acquisition.

**C. Major steps and timetable necessary to achieve those goals**

In order to achieve the above goals, the programs will:

1. Complete the roll-out of e-mail addresses most programs have initiated, and train all staff in the use of e-mail on the Internet.
2. Finish the development of a web site for all four programs, including areas containing *pro se* materials, *pro bono* materials, and access information for each program.
3. Provide staff with training on how to place and retrieve documents and other kinds of legal

information on and off the Internet, and in particular on and off the statewide web site, using browsers and ftp directories.

4. Where effective, coordinate technology purchases and development using inter-program contacts strengthened by the Statewide Office Automation Task Force.

### **3. Increased Access to Self-Help and Prevention Information**

#### **A. Strengths and weaknesses of the current approach**

Currently each legal services program develops self-help programs separately. Each program has some *pro se* programs, but to varying levels. Legal Services of Maumee Valley, for example, has a *pro se* clinic program in Fort Wayne for divorces, which uses the services of *pro bono* attorneys. In addition, Legal Services Organization of Indiana recently hired a National Association for Public Interest Law (NAPIL) Fellow to develop *pro se* systems for family law. All of the programs publish different community legal information pamphlets.

As with any de-centralized system, there are some benefits to no central control over what community education materials are printed, and what community education forums are presented. This allows for creative thought, and the ability to address needs of individual communities, and for different materials to be produced quickly. Locally produced brochures can have information targeted for local areas.

In addition, the court system in Indiana is largely controlled locally. Therefore, advocating for better access to courts by *pro se* litigants must be focused on the county and court level.

One weakness of this approach is that there is the real potential for each program to duplicate

what other programs have done. In addition, some advocacy regarding court access could be done on a state-wide basis.

**B. Goals to strengthen and expand services to eligible clients**

The goals to strengthen and expand services to eligible clients through self-help and prevention information include:

1. Increase the number of pamphlets produced each year on substantive legal issues.
2. Expand the *pro se* clinic system beyond Fort Wayne.
3. Increase the number of community legal education forums conducted each year.
4. Produce a state-wide *pro se* system for divorces, including forms, instructions and clinics.
5. Assist the courts in becoming more user-friendly for *pro se* litigants.
6. Establish a state-wide *pro se* assistance hot-line using *pro bono* attorneys who answer questions from *pro se* litigants regarding their case, focusing on a limited substantive area, such as family law.

**C. Major steps and a timetable necessary to achieve those goals**

In order to achieve these goals, the programs will:

1. Share, on paper and computer disk, all community legal education materials produced by individual programs.
  - The programs will share existing materials immediately
  - The programs will share all future materials as they are produced
2. Share all information about other community legal education forums and *pro se* clinics.

- The programs will share existing materials immediately
  - The programs will share all future materials as they are produced
3. Produce a system for *pro se* divorces, including forms, instructions and clinics.
- Beginning September 1998, the NAPIL Fellow at Legal Services Organization of Indiana, Inc. will begin work on this project, and will share her product with the other programs.
4. Advocate for better access to courts by *pro se* litigants.
- The programs will contact the state judge's organization and the court administrator's organization to explore the possibility of collaboration on developing ways to increase access for *pro se* litigants.
5. For steps regarding information on the world wide web, see the technology section.
6. Explore the *pro se* hotline concept with the Indiana Bar Foundation, and develop a timeline for seeking funding for this project.
- 4. Capacities for Training and Access to Information and Expert Assistance**
- A. Strengths and weaknesses of the current approach**
- Since the de-funding of the Indiana Legal Services Support Center, there have been fewer joint training programs and fewer formal opportunities to discuss strategies and share expertise. The Senior Network, comprised of senior law advocates throughout the state, is active, and has quarterly meetings and training programs. Beyond that, each program organizes its own internal trainings and trainings for *pro bono* attorneys, although invitations have been issued to other programs for many

of these trainings.

LSOI's advocacy work is organized in a Litigation Roundtable structure, which provides a mechanism for training and access to information and expert assistance within LSOI. This structure has not been used to include the other programs, although recently some Roundtable sections have issued invitations to staff of other programs to attend meetings.

Some programs have also broadened *pro bono* training programs by working with the Indiana Continuing Legal Education Forum (ICLEF) in planning training programs. For example, ICLEF has produced and mailed brochures for a recent CLE training program for *pro bono* attorneys on divorces. Some programs have also sent staff members to regional and national trainings, both those aimed at LSC-funded programs, such as the NLADA Substantive Law Conference, and more broad trainings, such as NITA Trial Advocacy trainings.

The strengths to this approach include no one program bearing the burden of providing training and expert assistance to all of the other programs. In addition, each program can be responsive to the training needs of its staff members, and choose to conduct training based upon their needs. There are, however, weaknesses to this current approach. If the programs worked together more closely with presenting training programs, and provided a formal means for staff to exchange expertise, clients would benefit from that.

**B. Goals to strengthen and expand services to eligible clients**

The programs' goals to strengthen and expand services to eligible clients through increasing capacities for training and access to information and expert assistance include:

1. Coordinate Community Legal Education trainings between programs, both for legal services staff and *pro bono* attorneys.
2. Develop a means for sharing expertise in a way that all programs can take responsibility, and can benefit from it.
3. Share information on the world wide web (see technology section).
4. Develop relationship with ICLEF to assist with CLE programs for staff and *pro bono* attorneys.

**C. Major steps and a timetable necessary to achieve those goals**

In order to achieve these goals the programs will:

1. Develop a formal mechanism for sharing expertise and information, perhaps through the LSOI Roundtable where feasible.
2. Begin immediately to regularly share information about all training programs presented by any of the programs.

**5. Engagement of Pro Bono Attorneys**

**A. Strengths and weaknesses of the current approach**

Each program currently conducts its own *pro bono* recruiting, training and referral systems. Again, this local control allows for local recruiting and for responses to individual communities strengths and needs. However, a coordinated system would be more effective and would prevent programs from re-inventing the wheel. The newly adopted rules on IOLTA and the state-wide *pro bono* program, coordinated by the Indiana Bar Foundation were discussed above. The programs look forward to working with these *pro bono* programs, which should prove to be a great new resource for legal assistance for poor people.

**B. Goals to strengthen and expand services to eligible clients**

The programs' goals to strengthen and expand services to eligible clients through the engagement of *pro bono* attorneys include:

1. Become an integral part of the new state-wide *pro bono* initiative of the Indiana Bar Foundation.
2. Share strategies for recruiting, training and supporting *pro bono* attorneys through regular meetings of *pro bono* coordinators.
3. Work more closely with local bar associations and other bar leaders to develop *pro bono* resources.



**C. Major steps and a timetable necessary to achieve those goals**

In order to achieve these goals, the programs will:

1. Form a committee of persons from each program to discuss *pro bono* initiatives and to work with the Indiana Bar Foundation to develop local *pro bono* plans to better serve clients.
2. Develop timetable for expansion of the *pro bono* programs along with the IOLTA timetable.

**6. Development of additional resources**

**A. Strengths and weaknesses of the current approach**

Since the reduction in LSC funding in 1996, the programs have worked together to create new resources for legal services, and have been very successful in a variety of ways, including in the development of the Indiana Equal Justice Fund, passage of the Civil Legal Aid Fund and development of the IOLTA program, all discussed above. The legal services programs have been successful in the state-wide efforts to increase resources. However, resource development continues to be very local, and in some cases must remain so. Collaborations can be productive when appropriate, and centralized advocacy for legal services can be very cost-effective.

**B. Goals to strengthen and expand services to eligible clients**

The programs' goals to strengthen and expand services to eligible clients through developing additional resources include:

1. Expand resources available through local United Ways.

2. Establish a contract with the State of Indiana to represent clients in SSI and SSD cases.
3. Bring more state and federal grants to legal services programs.
4. Increase the funds raised by the annual attorneys campaign.
5. Increase resources available through Americorps, NAPIL and work-study resources.
6. Develop funding for programs from the community foundations, which have been well funded by the Lilly Endowment.

**C. Major steps and a timetable necessary to achieve those goals**

In order to achieve these goals the programs will work with the Indiana Equal Justice Fund to establish a timeline and develop the major steps to take.

**7. Configuration of a Comprehensive, Integrated Statewide Delivery System**

**A. Strengths and weaknesses of the current approach**

Indiana has only four legal services programs, and none of those programs has the combination of a small geographical area and small poverty population. All but nine counties in the state are served by either Legal Services Organization of Indiana or Legal Services Program of Northern Indiana. Each of the programs has administrative offices in a large metropolitan area, and most also include a large rural area.

The two smallest programs have unique situations that cause them to benefit from having a local program. Legal Services of Maumee Valley has a poverty population of only 35,000, but its service area covers seven counties, already including a diverse rural and urban population. In

addition, while Legal Services of Northwest Indiana covers only two counties, those counties have a poverty population of 71,000, and have unique cultural and political issues. All of the programs in Indiana benefit from their local boards and traditional ties. By having local boards and staff, each program can maximize local resource development and *pro bono* recruitment. Legal Services of Maumee Valley, for example, is able to secure a 33% participation rate among the private bar in its *pro bono* program.

While there would be some benefit from consolidation of two or more programs in terms of efficiencies and cost-effectiveness, the programs do not intend to consolidate at this time. Having recently gone through the LSC funding cuts in 1995-96, the programs are looking toward new ways of serving clients, and new ways of collaborating. Consolidation, while it would have some benefits, would also carry with it many problems related to organizational staff and board culture, local funding losses and local bar relationships. The benefits of consolidation do not at this time outweigh these difficulties, and a move toward consolidation would take much energy and attention away from other projects that the programs believe will have a greater impact upon clients.

**B. Goals to strengthen and expand services to eligible clients**

- Develop systems whereby each program takes on responsibilities for some function from which all poor people in the state can benefit, through development of the programs discussed above.

**C. Major steps and a timetable necessary to achieve those goals**

- Major steps necessary will vary, depending upon the issue involved. The programs

will focus attention upon the specific issues outlined above.

## **Conclusion**

The LSC funded programs in Indiana, together and in collaboration with a number of other entities in the state, have been able to accomplish a great deal in expanding capacity in Indiana to serve the civil legal needs of the poor. The group of stake-holders has expanded, and is currently changing to include the leaders of the new state-wide *pro bono* initiative. The planning process in Indiana will move forward, and will include these new leaders of the *pro bono* initiative and others who have demonstrated a commitment to ensuring equal justice for the poor. The legal services community in Indiana will continue in the coming years to work together to become more effective and efficient in pursuing their mission of providing civil legal assistance to the poor.

## **Primary Contract:**

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